

5/23/033



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE35 East 500 North
Fillmore, UT 84631
<http://enbb.blm.interwebdesign.com>In Reply Refer to:
3600/3715/3809
(U-010)
UTU-072898
UTU-072889

November 29, 2001

CERTIFIED MAIL # 7000 1530 0006 2417 0204
RETURN RECEIPT REQUESTEDLAWRENCE FAHN
PRESIDENT
NEWCO GUYANA INC
204 ELKIN CT
DELMAR NY 12054

RECEIVED

DEC 03 2001

DIVISION OF
OIL, GAS AND MINING

Dear Mr. Fahn:

On October 17, 2001, a Notice of Noncompliance and Notice of Trespass were issued for your mining operation located in T. 12 S., R. 5 W., Section 5 (case file UTU-072898). This letter rescinds the notice of noncompliance and trespass. There are, however, several aspects of your operation that are in noncompliance as discussed in your telephone conversation with Jerry Mansfield on November 9, 2001. These noncompliance issues must be addressed and resolved.

The items in noncompliance are:

1. The access road to the mining operation has been upgraded. This road work is not part of the existing notice. Appropriate National Environmental Policy Act (NEPA) actions were not completed prior to the road improvements.

Corrective action: Obtain a right-of-way pursuant to Title V of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (P.L. 94-579; 90 Stat. 2776; 43 U.S.C. 1761), as stated in our letter dated August 30, 2001 that was addressed to David Adkins. I have enclosed a right-of-way application form (Standard Form 299 [SF-299]). Complete all sections of the form including the date. The form must be signed by an officer authorized to sign for, and on the behalf of, Newco Guyana Inc. Submit the application to this office along with the following:

- (1) a detailed description of the right-of-way area requested (e.g., width, length, type of road surface, source of road material, etc.); and
- (2) a 7.5 minute topographic map showing the approximate on-the-ground location of the access road right-of-way.

In accordance with 43 CFR 2808.3-5, there are two cost recovery fees associated with this right-of-way, a non-refundable application fee and a monitoring fee. Once we have received the completed application, a written category determination will be made and you will be notified of the amount of each cost recovery fee. Before we can begin processing any application, the non-refundable application fee must be received. The monitoring fee is usually submitted along with the non-refundable application fee but it must be received prior to grant issuance.

There is one other fee associated with this right-of-way, in accordance with 43 CFR 2803.1-2, and that is the rental. Prior to grant issuance, a rental determination will be made and you will be informed of the relevant rental amount at that time.

2. Material was removed from Juab County's Free Use Permit gravel Pit, UTU-072889, and used to upgrade the access road. The site covered by the County's Free Use Permit is located in T. 12 S., R. 5 W., Section 8. Non-governmental entities are not entitled to free material from this pit.

Corrective action: Provide this office with the amount of material removed from the pit. This office will also estimate the amount removed for comparison purposes; once a volume is agreed upon, the material must be purchased from this office.

3. The notice on file does not include all the surface disturbance that exists at the site. Currently the mine site disturbance is 3.1 acres. The notice proposed a total disturbance of 2.5 acres. A water tank and two water wells are on site that were not included in the original notice.

Corrective action: file an amended notice that includes current surface disturbance and all proposed future surface disturbing activities and occupancies (e.g., water tank, water wells, total proposed disturbance, etc.)

4. The water wells and water tank, currently on the site, are considered occupancy and were not properly permitted under the 43 CFR 3715 regulations.

Corrective action: submit information required by 43 CFR 3715.3-2. In addition, a copy of a change application submitted to the State of Utah, Division of Water Rights transferring the water right to Newco Guyana and identifying all points of diversion must be submitted to this office.

Since some of these noncompliance issues were inherited from the previous operator, we will afford you 45 days to correct all the items in noncompliance listed above in the manner prescribed. If you address all the items as requested, then your mining operation will remain as a notice level activity

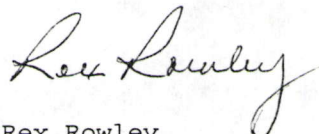
under the 3809 regulations that were in effect prior to January 20, 2001 (Old Regulations).

If the listed items are not corrected in the manner prescribed, then a noncompliance order will be issued under the Surface Management regulations that became effective January 20, 2001. Under these regulations, a plan of operations and a financial guarantee will be required. In addition, a notice of noncompliance will be issued under 3715 regulations. Also, a mineral material (gravel) trespass case will be initiated. If the occupancy issues are not resolved, then a cessation order will be issued.

The standards for filing a plan of operations under the final rule that became effective January 20, 2001 are found in the 400 sections (see attached Federal Register, Final Rule). In addition, the individual financial guarantee must cover the estimated cost to reclaim, as if BLM were to contract with a third party to reclaim your operations according to the reclamation plan (see section 500 of the enclosed regulations).

If you have any questions regarding this issue, please call Jerry Mansfield at (435) 743-3125.

Sincerely,



Rex Rowley
Field Office Manager

Enclosures:

1. 43 CFR 3715
2. November 21, 2000 Federal Register
3. SF-299

cc: David Adkins, 4598 South Shiloh Park Lane, SLC, UT 84117
Brandon Steele, 1055 N 400 E, Nephi, UT 84648
Darrell Steele, 1055 N 400 E, Nephi, UT 84648
D. Wayne Hedberg, UDOGM (S/023/033)
Tim B. Hannifin, MSHA
Juab County Commission